IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 1240 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE K.M.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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KAMLESHBHAI KARIDAS SONARA - Applicant(s)

Versus

STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :

MS KD PARMAR for Applicant(s) : 1,
MR LR POOJARI, APP for Respondents.

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CORAM : HONOURABLE MR.JUSTICE K.M.MEHTA

Date : 18/01/2006

ORAL JUDGMENT

1. The petitioner has filed this petition with a prayer that this Court may be pleased to issue a writ of certiorari or any other appropriate writ, order or direction, for quashing and setting aside the order of

externment dated 14.9.2004 passed by the respondent No.2 under Section 56 (kh) of the Bombay Police Act, 1951, externing the petitioner for a period of two years which has been confirmed by the respondent No.1 vide order dated 13.4.2005 as being illegal, invalid, null and void, arbitrary, suffers from non application of mind and violative of Articles 14, 19 and 21 of the Constitution of India. The petition was filed on 6th September, 2005, and this Court has issued Rule on 21st December, 2005.

2. Heard Ms.K.D.Parmar, learned advocate for the petitioner and Mr.L.R.Poojari, learned APP for the respondents-State of Gujarat.

3. Ms.K.D.Parmar, learned advocate for the petitioner states that there are number of grounds in the matter, however, she confines her arguments only on one ground namely that there is delay in passing the impugned order. She has stated that the show-cause-notice was issued by the authority on 19.9.2003 and the petitioner has replied somewhere in October 2003. Thereafter the authority has passed the order in September 2004. In the order the authority has not given any reasons as to

why there is delay in passing the order. Though the petitioner has filed appeal before the authority somewhere on 21st September, 2004, and also raised the same ground of delay, however, the appellate authority has not considered the same and has confirmed the impugned order dated 14.9.2004 passed by the authority in this behalf.

4. Ms.K.D.Parmar, learned advocate for the petitioner states that there are number of grounds in the matter, however she confines her arguments only on one ground namely that there is delay in passing the impugned order. In support of the same, she has relied upon the judgment of this Court in Special Criminal Application No.1451 of 2005 decided on 1st December, 2005, where this Court has considered various authorities and only on the ground of delay the petition was allowed by this Court. In view of the reasons stated in the said judgment, this petition is allowed.

5. For the foregoing reasons, this Special Criminal Application No.1240 of 2005 is allowed. The impugned order of externment dated 14.9.2004 passed by the

Police Commissioner, Ahmedabad City, externing the petitioner for a period of two years is ordered to be quashed and set aside. The impugned order dated 13.4.2005 passed by the Deputy Secretary, Home Department, State of Gujarat, confirming the order of externment is also ordered to be quashed and set aside. Rule is made absolute. Direct service is permitted.

(K.M. Mehta, J.)

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